

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #8	CCRB Case #: 201703859	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/24/2017 12:47 PM	Location of Incident: in front of 176 Johnson Street	Precinct: 84	18 Mo. SOL 10/24/2018	EO SOL 10/24/2018	
Date/Time CV Reported Mon, 05/15/2017 8:43 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 05/15/2017 8:43 PM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. DT1 Daniel Alessandrino	00894	929600	SP FRDS		
Officer(s)	Allegation			Investigator Recommendation	
A.DT1 Daniel Alessandrino	Abuse: Detective Daniel Alessandrino questioned § 87(2)(b)				

Case Summary

This complaint was filed by § 87(2)(b) on May 15, 2017 via the CCRB's website.

On April 24, 2017, at approximately 12:47 p.m. § 87(2)(b) was walking in the vicinity of 176 Johnson Street in Brooklyn. § 87(2)(b) observed a vehicle that had a piece of tape covering part of its license plate number. § 87(2)(b) took a picture of the license plate to document what he believed to be a form of obstruction. § 87(2)(b) was approached by Det. Daniel Alessandrino of the Special Fraud Squad. Det. Alessandrino asked § 87(2)(b) for identification which § 87(2)(b) ultimately refused to provide (**Allegation A**). § 87(2)(b) left the location.

§ 87(2)(b) recorded a portion of this incident with his cell phone. § 87(2)(b) also provided the investigation with cell phone video recorded by another civilian witness to this incident. No arrests or summonses resulted from this incident.

Mediation, Civil and Criminal Histories

- This case was suitable for mediation and it was offered to § 87(2)(b) over the phone and during his interview. § 87(2)(b) chose to have his complaint investigated.
- The NYC Office of the Comptroller responded to a request indicating that no notice of claim has been filed by § 87(2)(b) regarding this incident (BR01).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) that fell within the Agency's jurisdiction (BR02).
- Det. Alessandrino has been a member of the service for 15 years and has one prior substantiated allegation. In CCRB case 200403490, the Board substantiated an offensive language allegation and recommended charges. The NYPD enforced instructions. Det. Alessandrino has three additional prior allegations involving two cases § 87(2)(g)

Potential Issues

- § 87(2)(b) obtained video footage from a civilian who was also recording this incident. § 87(2)(b) did not know this person's name but knew him to be associated with a Twitter account that documents abuse of parking placards among civil servants. After reaching out to this Twitter account, the undersigned received an e-mail from the witness. The witness expressed concerns about his identity being obtained by the NYPD. The witness did not respond to the undersigned and thus, no statement could be obtained from him.

Findings and Recommendations

Allegation A – Abuse of Authority: Detective Daniel Alessandrino questioned § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) testified that he is involved in photographing and documenting examples of police officers and other civil servants abusing parking placards and violating other parking rules (BR03). § 87(2)(b) was walking and noticed a van with a license plate that had a piece of duct tape covering part of the plate number. § 87(2)(b) took a picture of the obstructed license plate. § 87(2)(b) was approached by Det. Alessandrino who quickly flashed his badge and asked to see § 87(2)(b)'s ID. A back and forth ensued between § 87(2)(b) and Det. Alessandrino. § 87(2)(b) questioned why he had to provide ID. Det. Alessandrino repeated to § 87(2)(b) that he found his actions to be suspicious and asked for his ID. Another civilian was on the sidewalk, recording, and interjecting into the back and forth. § 87(2)(b) expressed that he felt intimidated by Det. Alessandrino because he was much larger than him and was carrying a weapon. The civilian asked Det. Alessandrino what would happen if § 87(2)(b) did not provide his ID. Det. Alessandrino responded, "We can stay here all night then." § 87(2)(b) asked if he was free to leave and was told that he was. Det. Alessandrino said, "I want to show you something." § 87(2)(b) waited. Det. Alessandrino took a picture of § 87(2)(b) with a cell phone. § 87(2)(b) left.

§ 87(2)(b) provided cell phone video that he obtained from a civilian who was recording this incident (BR04-05). The video closely corroborates § 87(2)(b)'s account that Det. Alessandrino repeatedly stated that he found him to be acting suspiciously and asked him for ID. Det. Alessandrino did not ask § 87(2)(b) any other questions. § 87(2)(b) asserts that there was nothing suspicious about his public actions and refuses to identify himself to Det. Alessandrino. The civilian witness is also interjecting and questioning Det. Alessandrino's reasons for approaching § 87(2)(b).



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Det. Alessandrino testified that he observed § 87(2)(b) crouched behind a vehicle with NYPD placards (BR06). Det. Alessandrino found this to be suspicious because, based on his experience, it was consistent with the actions of a car burglar. After getting closer, Det. Alessandrino saw that § 87(2)(b) was taking pictures of the vehicle. Det. Alessandrino found this to be suspicious because officers from his command and others who work in the area have made complaints about having been followed home by suspects that they are investigating. Det. Alessandrino works at the Special Fraud Squad which investigates high profile crimes involving violent gang members who have come to his office to intimidate his team. Det. Alessandrino did not suspect § 87(2)(b) of being involved in a crime. However, because of these safety considerations, he wanted to speak with § 87(2)(b) to find out what his purpose was. Det. Alessandrino approached § 87(2)(b) identified himself as a police officer, explained that he found his actions to be suspicious because of the reasons described above. Det. Alessandrino asked § 87(2)(b) for his ID because he wanted to know who he was speaking with. A back and forth ensued in which § 87(2)(b) refused to provide his ID or to verbally identify himself. After viewing the video of the incident, Det. Alessandrino explained that he said that they would be there all night if § 87(2)(b) did not provide his ID because § 87(2)(b) and the civilian witness were antagonizing him and got under his skin. However, right after this occurred, § 87(2)(b)

§ 87(2)(b) asked if he was free to leave and Det. Alessandrino told him that he was. Det. Alessandrino took a picture of § 87(2)(b) with his department issued cell phone to have some sort of documentation of who he was.

People v. De Bour, 40 N.Y. 2d 210 (1976) establishes general principles by which officers are permitted to approach, question, and forcibly detain civilians during street encounters (BR07). These principles are codified in PG 212-11 which discusses procedures involved in investigative encounters (BR08). Officers are permitted to engage with civilians with varying degrees of intensity based on their intentions and level of suspicion that criminality is afoot. A request for information (a level one encounter) may be initiated any time that an officer possesses an objective credible reason to do so. An objective credible reason is based on more than a hunch and the purpose for the request may relate to a public safety or law enforcement function, but need not be based on any indication of criminality. In level one encounters, officers “may seek information and ask general, non-threatening questions related to the reason for the approach. However, accusatory questions are not permitted... The person may refuse to answer questions and is free to leave.” This type of encounter is differentiated from the common law right of inquiry (a level two encounter) in which an officer is permitted to ask pointed and accusatory questions which are predicated on a founded suspicion that criminality is afoot. A terry stop (a level three encounter) is one in which an officer must possess a reasonable suspicion that a crime is being, has been, or is about to be committed. In a level three encounter, the officer may create circumstances, either through words or actions, in which a reasonable person would not feel free to disregard the officer and walk away.

New York v. Hollman, 79 N.Y.2d 181 (1992) discusses in more detail the subtle differences between a level one and a level two encounter (BR09). The court states that a “a policeman’s right to request information while discharging his law enforcement duties will hinge on the manner and intensity of the interference, the gravity of the crime involved and the circumstances attending the encounter.” Requests for information are also characterized as being “brief, and lacking in harassment or intimidation.” The court also acknowledges “it is certainly unsettling to be approached by a police officer and asked for identification. Even though we term this a request for information, we do not mean to suggest that a reasonable person would not be taken aback by such a request.”

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

As Hollman acknowledges, people may be taken aback and feel unsettled by a request for information from a police officer. However, as outlined by the courts, all factors regarding an officer's conduct must be considered in evaluating the category of encounter that a civilian was subjected to. § 87(2)(g)

Squad: 8

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date